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EXAMINER

HO, THOMAS M

ART UNIT PAPER NUMBER

2134

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,177

Applicant(s)

RIPLEY ET AL.

Examiner

Thomas M. Ho

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8, 19, 20, 31-33 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8, 19, 20, 31-33 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 6-8, 19-20, 31-33, 37-39 are pending.
2. The amendment of 3/24/06 has been entered.

Response to Arguments

The Applicants have argued (page 9, paragraph 3):

Applicants maintain that Saito does not teach, disclose, or make obvious the following element as required by various pending claims, such as, for example, claim 6:

“transferring from the content source the encrypted content and the encrypted title key to a storage medium where the encrypted content and encrypted title key may be accessed by the customer:

Specifically, the Applicant has stated (page 9, paragraph 4):

*In Saito, the **encrypted** title key is not transferred to a storage medium where it may be accessed by the customer. Instead, “the encrypted secret keys Cks1kb1 and Cks2kb2 are distributed to the first user” (Column 7, lines 1-2), where the first user decrypts the distributed secret keys Cks1kb1 and Cks1kb2” (Column 7, lines 3-4) and the decrypted secret keys are stored (Column 7, line 12)*

The Examiner disagrees. The first user of the customer accesses the encrypted keys so he or she can decrypt it, the encrypted key having been distributed to the first user.

Applicant has additionally argued:

Saito teaches away from storing the secret keys in this manner and cites: (Column 7, lines 17-18) which recites that the secret keys “are not under the user’s control”.

The Examiner contends however that it may indeed be possible from Saito’s disclosure that the secret keys are not under the user’s control. In fact, they are under the control of the data management and key distribution center of Saito. Nevertheless, this does not mean that the keys are therefore inaccessible by the user.

To this effect, Saito(Column 7, lines 1-6) recites that the secret keys are distributed to the first user. The first user then accesses the key in order to decrypt it.

Additionally, the Applicant has argued the claim with the presumption that the keys are stored as a result of the claim language. It is however noted that the Applicant’s limitation merely recites that the encrypted content keys need only be transferred to a storage medium. From thereon, the

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encrypted content and encrypted title key may be accessed by the customer. The Applicant's limitation however does not explicitly recite that the encrypted content keys need to be stored in the storage medium, but that they merely are transferred there. Whether the keys are ultimately storage in the storage medium in encrypted form or unencrypted form is not specified by the Applicant's claim limitation.

If the Applicant desires that the keys are not only transferred to a storage medium, but also stored therein in encrypted form, the Applicant may amend the claims to add this limitation to it.

Applicants have additionally argued (page 10, paragraph 3):

"Applicants maintain that Saito does not teach, disclose, or make obvious the following element as required by various pending claims, such as, for example, claim 19: "accessing from a storage medium content encrypted with a title key, the storage medium additionally storing a customer ID associated with a customer requesting the content, a Media Key Block (MKB), and the title key that is encrypted (encrypted title key) with a customer ID."

The Applicant has also argued: (page 11, paragraph 2)

"The claim language, in this case, necessarily implies that the claimed data be stored on the same storage medium, not from arbitrary mediums as implied by the Examiner's response."

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The Examiner contends however that the Applicant has only recited "a storage medium" in the claim language. While arguably, Applicant's recitation in the claim could be implicitly interpreted to mean the same storage medium, the Applicant has chosen not to amend this limitation into the claims. If the Applicant desires for a stricter interpretation, he or she is free to amend that limitation into the claims during prosecution. During examination however, the claims must be given their broadest reasonable interpretation.

As MPEP 2111 states

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification." >*In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).< Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

The Applicant has merely recited "a storage medium" in the claims and has not indicated the degree of specificity that the Applicant is currently advocating in paragraph 2 of page 11. The Examiner has broadly construed that the information may be stored on simply "a storage medium".

For this reason, the Examiner finds Applicant's arguments unpersuasive.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6-8, 19-20, 31-32, 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito, US patent 6,002,772.

In reference to claim 6:

Saito discloses a method comprising:

- Receiving a request to transfer content to a customer (Column 6, lines 38-42)
- Retrieving from a content source encrypted content corresponding to the requested content, the encrypted content being encrypted by a title key, where the title key is KS1 (Column 7, line 65- Column 8, line 5)
- Obtaining a customer identifier ID associated with the customer, where the identifier is obtained with the other user information. (Column 6, lines 43-52)
- Binding the requested content to the customer ID by using the customer ID to encrypt the title key, where the requested content is bound to the ID by first using the ID to encrypt the title key, KS1. (Column 7, line 65- Column 8, line 5)

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- Transferring from the content source the encrypted content and the encrypted title key to a storage medium, where the encrypted content and the encrypted title key may be accessed by the customer, where the encrypted title key is first transferred and accessed by the customer to be decrypted. (Column 6, line 61 – Column 7, line 7 et seq.) & (Column 7, line 55- Column 8, line 5)

In reference to claim 7:

Saito (Column 6, lines 53-67) discloses the method of claim 6, wherein said binding the requested content to the customer ID by using the customer ID to encrypt the title key comprises combining the customer ID with a media key provided by the content source, where the user ID is bound to a media key, KB1 which is then used to encrypt the title key, KS1, which is then used to encrypt the title key.

In reference to claim 8:

Saito (Column 6, lines 52-60) discloses the method of claim 7, wherein said combining the customer ID with a media key comprises using a cryptographic one-way function, where the customer ID is combined with the media key using the one way hash function, MD5.

In reference to claim 31:

Saito discloses a method comprising:

- Accessing encrypted content (Column 7, line 60-67) that is stored on a storage medium (Column 8, lines 23-54) additionally storing a customer ID (Column 6, lines 48-

50) associated with a customer requesting the content(Column 6, lines 35-50), a Media Key block (MKB), the information used to complete Kb1)(Column 6, lines 48-55), and the title key, KS1, (Column 6, lines 60-65) that is encrypted (encrypted title key) with a customer ID (KS1, Column 6, lines 60-65), where KB1 is the combined version of both the customer ID and the public key, KB1. (Column 6, lines 48-55), and where the content is encrypted with the title key, KS1 (Column 7, line 65 – Column 8, line 5)

- Processing the MKB to generate a Media key by using Device Keys associated with a device for using the content, where the MKB is the set of information used to create the Media key, KB1, and where the device keys, KS1 and KS2 associated with the device are also used for using the content. (Column 6, lines 53-67)
- Decrypting the encrypted title key to form the title key by reading a customer ID and combining the customer ID and the Media Key, where the title key, KS1 is decrypted to form the title key, encrypted using the original combined key KB1. (Column 7, lines 4-11)
- Using the title key to decrypt the encrypted content, where the title key KS1 is used to decrypt the content. (Column 8, lines 13-17)

Claims 32, 38, 41 are rejected for the same reasons as claim 8.

Claims 19 are rejected for the same reasons as claim 6.

Claims 20 are rejected for the same reasons as claim 7.

Claim 37 are rejected for the same reasons as claim 31.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 33 and 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito.

In reference to claims 33 and 39:

Saito discloses fails to explicitly disclose an embodiment wherein the content comprises a music title.

Saito however does disclose that audio data content used at the content to be distributed was well known in the art. (Column 1, lines 40-46)

The Examiner takes as admitted prior art that content comprising a music title was well known at the time of invention. For example, CD tracks have the names of the songs attached to them.

Additionally it is noted that Saito (Column 1, lines 40-46) discloses the content may include audio and video.

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It would have been obvious to one of ordinary skill in the art at the time of invention to have content comprising a music title in order to allow the invention of Saito to be used with distributing musical content to reach out to that section of the market.

Conclusion

7. The following art not relied upon is made of record:
 - US patent, 6883097 Coincidence free media key block for content protection for recordable media discloses a protected content distribution system with common inventor Lotspiech.
 - US patent 4205343 discloses a method of transmitting enciphered television signals.
8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of the final action and the advisory action is not mailed under after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension pursuant to 37 CFR 1.136(A) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication from the examiner should be directed to Thomas M Ho whose telephone number is (571)272-3835. The examiner can normally be reached on M-F from 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571)272-6962.

The Examiner may also be reached through email through Thomas.Ho6@uspto.gov

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

General Information/Receptionist Telephone: 571-272-2100 Fax: 571-273-8300

Customer Service Representative Telephone: 571-272-2100 Fax: 571-273-8300

TMH

May 12th, 2005

Jacques Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER